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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

COMMISSIONERS

DOCKETED

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
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KRISTIN K. MAYES
BARRY WONG

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
LAS QUINTAS SERENAS WATER CO. FOR
AUTHORITY TO INCUR LONG-TERM
INDEBTEDNESS TO FINANCE WATER
SYSTEM IMPROVMENTS.

DOCKET NO. W-01583A-06-0437

**PROCEDURAL ORDER AND
NOTIFICATION OF
INTERVENTION**

BY THE COMMISSION:

On June 30, 2006, Las Qunintas Serenas Water Co. ("LQS" or "Company") filed an application for authority to incur long-term debt with the Arizona Corporation Commission ("Commission"). LQS is seeking authority to borrow up to \$400,714 from WIFA for the purpose of installing 400,000 gallons of additional storage and a 130kV back-up generator.

By Letters dated September 21, 1006, September 22, 2006, September 24, 2006 and September 26, 2006, the following individuals, all customers of LQS, requested intervention in the this proceeding: Donald K. Gill; Jane Constatine; Edward L. Valdez and Margaret J. Valdez; Tommy O. Testerman and Jeanne O. Testerman; and Peter J. Martin and Donna S. Martin. The original notice of the finance request did not contain a Docket No. and these individuals filed their requests in an earlier docket, W-01583A-05-0340, which was one of the consolidated dockets in LQS's request for financing and a cost recovery mechanism for arsenic treatment.¹ The body of the intervention requests refers to the pending finance request of \$400,714, and will be considered requests to intervene in this docket.

On October 12, 2006, and October 17, 2006, respectively, John S. Gay and Jane Appleby, part-owners of LQS, filed requests to intervene in this proceeding. Mr. Gay had been an intervenor, and active participant, in the consolidated dockets addressing arsenic treatment and cost recovery.

¹ Upon the order of the Commission, on October 10, 2006, LQS subsequently mailed another notice of the pending proceeding, including the correct docket number.

1 Ms. Appleby had given public comment in the earlier consolidated dockets. At that time, both
2 advocated a plan for arsenic treatment advanced by Miller Brooks.

3 On November 3, 2006. LQS filed a Response to Intervenors' Gill, Constatine, Valdez,
4 Testerman and Martin, and an Opposition to Intervenors Gay and Appleby's Requests for
5 Intervention and Motion in Limine. LQS opposed intervention by Intervenors Gay and Appleby, and
6 argues that they are attempting to collaterally attack Decision No. 68718 (June 1, 2006) which
7 approved financing in the amount of \$1,580,446 for arsenic treatment facilities and a procedure to
8 implement an arsenic cost recovery mechanism. In their requests to intervene in the current
9 proceeding, Intervenors Gay and Appleby continue to argue in support of the Miller Brooks Plan for
10 arsenic treatment. LQS states that subsequent to the issuance of Decision No. 68718, the majority of
11 the LQS Board of Directions decided to continue with the original plan for arsenic treatment and
12 additional system upgrades recommended by WestLand Resources. LQS notes that in Decision No.
13 68718, the Commission determined that additional storage and a back-up generator that LQS had
14 requested be included as part of the arsenic treatment facilities, were not related to arsenic treatment
15 to allow recovery through the arsenic treatment recovery mechanism. The current finance request is
16 for authority to incur long-term debt to finance the additional storage and back-up generator which
17 LQP asserts are necessary for system reliability. LQS believes that Intervenors Gay and Appleby are
18 attempting to use this docket as an opportunity to have the Commission order LQS to adopt the
19 Miller Brooks Plan, which the LQS Board has not adopted. LQS argues that the only issue for
20 resolution by the Commission in the current proceeding is whether LQS has the capacity to service
21 the proposed \$440,714 loan.

22 In the alternative, if the Commission approves intervention by Intervenors Gay and Appleby,
23 and if the Commission determines that a hearing is required in this matter, LQS requests a written
24 directive that limits the scope of intervention to addressing the issue of whether the "financial
25 circumstances of LQS are such as to allow it to service the proposed \$440,714 loan."

26 LQS believes that Mr. Gill's request also represents an attempt to collaterally attack Decision
27 No. 68718, and thus incorporates the arguments of its Opposition to the Gay and Appleby requests to
28 the request of Mr. Gill. LQS states that the requests of Ms. Constatine, Mr. and Mrs. Valdez, Mr. and

1 Mrs. Testerman and Mr. and Mrs. Martin, are non-specific and appear to be based on a "form" letter.
2 LQS requests that in the event a hearing is conducted, that the scope be limited to the issues relevant
3 to the current finance request.

4 In Decision No. 68718, the Commission authorized the Company to borrow up to \$1,580,446
5 for the purpose of acquiring and installing arsenic treatment facilities. Although the borrowing
6 authorization was premised on the projected costs of the Westland Resources Plan, rather than the
7 Miller Brooks Plan, in Decision No. 68718 the Commission did not approve a specific plan for
8 treating the arsenic. In that Decision, the Commission found that the additional storage and back-up
9 generator were not related to arsenic treatment and thus not appropriately included in the arsenic cost
10 recovery mechanism. The Commission made no findings, one way or the other, that the additional
11 storage or back-up generator would be prudent investments.

12 As owners and/or customers of LQS, Mr. Gay, Ms. Appleby, Mr. Gill, Ms. Constatine, Mr.
13 and Mrs. Valdez, Mr. and Mrs. Testerman and Mr. and Mrs. Martin are substantially and directly
14 affected by the proceedings to support intervention. Thus, their requests to intervene are appropriate
15 and should be granted. A.A.C. R14-3-105 states that no application for intervention shall be granted
16 where by so doing the issues theretofore presented will be unduly broadened. Mr. Gay is the only
17 intervenor who requests a formal hearing to present facts and figures to back his position. Based on
18 this request for intervention, Mr. Gay's position appears to be that the Miller Brooks Plan will give
19 LQS a better, more reliable system.

20 Decision No. 68718 is a final Order of the Commission, and has not been appealed. It is not
21 in the public interest to reconsider Decision No. 68718 in this proceeding, and the intervenors will
22 not be permitted to present evidence or argue that the authority granted in Decision No. 68718 should
23 be modified. Thus, pursuant to A.A.C. R14-3-105, the scope of the current proceeding shall be
24 limited to the issues of whether the current financing request is compatible with the public interest,
25 with sound financial practices and with the proper performance by LQS as a public service
26 corporation.

27 It is unclear whether Mr. Gay has evidence to present on the current finance request, as
28 opposed to relitigating the issues presented in Decision No. 68718. Consequently, the Commission

1 will convene a Procedural Conference to determine whether a hearing is required in this matter.

2 IT IS THEREFORE ORDERED that the intervention requests of Mr. Gay, Ms. Appleby, Mr.
3 Gill, Ms. Constatine, Mr. and Mrs. Valdez, Mr. and Mrs. Testerman and Mr. and Mrs. Martin, are
4 granted.

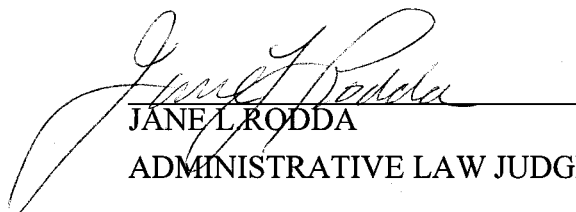
5 IT IS FURTHER ORDERED that the scope of this proceeding shall be limited to whether the
6 current financing request is compatible with the public interest, with sound financial practices and
7 with the proper performance by Las Quintas Serenas Water Company as a public service corporation,
8 and shall not include testimony related to the appropriate arsenic treatment facilities.

9 IT IS FURTHER ORDERED that a **Procedural Conference** for the purpose of determining
10 whether a hearing is required in this matter shall commence on **November 29, 2006**, at 1:30 p.m., or
11 as soon thereafter as is practical, in **Room 131** at the Commission's office, 400 West Congress,
12 Tucson, Arizona 85701.

13 IT IS FURTHER ORDERED that pursuant to A.A.C. R14-3-104, the Presiding Officer may
14 declare that parties with substantially like interests and positions are a class, and may designate one
15 of their members to be a representative of such class at any hearing in this matter.

16 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
17 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

18 DATED this 14th day of November, 2006.

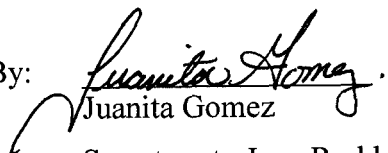
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20
21 
22 JANE L. RODDA
23 ADMINISTRATIVE LAW JUDGE

24 Copies of the foregoing mailed
25 this 14th day of November 2006 to:

26 Lawrence V. Robertson, Jr.
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Attorney for Las Quintas Serenas Water Co.

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23
24 By:


Juanita Gomez

25
26 Secretary to Jane Rodda
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